

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

|   |                      |
|---|----------------------|
| In re: Application of Pointe Utilities, ) | DOCKET NO. 900152-WU |
| Inc. for Water Certificate in Marion )    | ORDER NO. 22976      |
| County. )                                 | ISSUED: 5-24-90      |
| )   |                      |

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The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman  
 BETTY EASLEY  
 GERALD L. GUNTER

ORDER AUTHORIZING TEMPORARY SERVICE

AND

NOTICE OF PROPOSED AGENCY ACTION  
ORDER DENYING CERTIFICATE AND SETTING  
RATES AND CHARGES

BY THE COMMISSION:

Notice is hereby given by the Florida Public Service Commission that the action discussed herein is final except for the denial of Pointe Utilities, Inc.'s request for a certificate to provide service in Marion County and the setting of rates and charges, which are preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

Background

On February 27, 1990, Pointe Utilities, Inc. (Pointe or Utility) filed an application with this Commission for a certificate to provide service in a rural area of Marion County. The application, as filed, was incomplete. The Utility corrected the deficiencies on April 11, 1990. Pointe will serve 86 single family homes at buildout. Sewer service is provided by septic tanks. The Utility's parent company, Turning Pointe Investments, Inc. (Turning Pointe), is also the development company for the proposed service area.

Pointe constructed the water facilities and connected eight single family homes to the system without obtaining a certificate from this Commission, in violation of Section

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FPSC-RECORDS/REPORTING

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367.031, Florida Statutes, and the Department of Environmental Regulation (DER)'s Chapter 403, Florida Statutes. Pointe received approval from DER to provide service to the eight residential service connections pending a decision by the Commission on Pointe's request for a certificate.

We are concerned about Pointe's ability to operate the water system. It is unlikely that a system of this size will be able to operate as a financially sound business, especially when the requirements of the Safe Drinking Water Act are fully implemented. It is anticipated that the cost of providing water service which complies with these requirements will have a greater impact on a small utility than on a larger utility which can spread the cost over a larger number of customers.

The initial rates calculated for Pointe, which do not include costs related to the requirements of the Safe Drinking Water Act, are higher than those of any other system we regulate in Marion County. In addition, both Pointe and Turning Pointe appear to have minimal cash reserves for use by the Utility during its initial years of operation.

Pointe's statement of financial position shows that assets consist solely of construction work in progress and its liabilities include \$600 in common stock and \$95,400 in accounts payable to Turning Pointe. Turning Pointe's statement of financial position reflects \$15,976.14 in cash and \$1,116,000 in land.

On March 19, 1990, we requested financial statements of the officers of Turning Pointe and an agreement from the financial backers showing that they will commit additional funds to the Utility until the Utility reaches 80% of capacity. The response, in the form of a letter from Barnett Bank, dated March 22, 1990, was insufficient to satisfy our concern regarding the financial commitment of the backers. In an agreement provided on April 11, 1990, the backers agreed to commit \$5,000. At that time, they were advised by Commission Staff that \$5,000 was insufficient and that they needed to commit at least \$20,000. On April 18, the backers provided an agreement to commit a minimum of \$20,000 to the Utility.

Subsequent to a meeting between the Commission Staff and Pointe and its consultant, Pointe advised the Commission that

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it had entered into an agreement on April 24, 1990, to sell the facilities to Marion Utilities, Inc. (Marion). Therefore, we find it appropriate to deny Pointe's application for a water certificate and to authorize Marion to provide immediate temporary service to the territory described in Attachment A, pending the filing of an application by Marion for amendment of its certificate.

Temporary Service by Marion Utilities, Inc.

Marion holds Certificate No. 347-W in Marion County. It has been in business since November 25, 1980 and operates 21 systems that serve 3,200 customers. According to its 1989 annual report, Marion's rate base for the water system at year end 1989 was \$740,257; its revenues were \$578,572; and it earned a rate of return of 9.96% on its water system.

According to DER, Marion is not under any enforcement action, nor is DER aware of any significant problems with any of Marion's systems. Marion appears to have the financial and technical ability to provide reliable service in the additional area. Furthermore, Marion's rates are reasonable and significantly lower than the rates calculated for the Pointe system. Therefore, it does not appear that the purchase of this system will harm the present customers of Marion.

Since there is an immediate need for service in the area and because Marion is able to provide that service without impairing its ability to serve its existing customers, we find that it is in the public interest to allow Marion to serve the proposed territory described in Attachment A. Therefore, Marion is directed to file an application for amendment of Certificate No. 347-W within 90 days of the date of this Order. Marion shall also file a tariff revision within 30 days of the date of this Order incorporating the additional territory into its approved tariff.

Rates and Customer Deposits

In certificate applications, rates are established which will allow a utility to earn a fair rate of return on its investment when the facilities reach 80% of design capacity. We have compared Marion's rates to those calculated by the Commission Staff for Pointe. The rates calculated for Pointe

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would allow the Utility to earn a fair rate of return on its investment. These rates are based on proforma rate base, operating income, and capital structure when the treatment plant reaches 100% of capacity. The analysis performed is based on 100% of capacity rather than 80% since Pointe expects to reach 80% and 100% during 1992. Furthermore, the costs are spread over a slightly larger number of customers when calculating costs based on 100% of capacity. A comparison of Marion's approved monthly rates and the monthly rates calculated for Pointe is as follows:

|                      | <u>Marion's<br/>Approved Rates</u> | <u>Rates Calculated<br/>for Pointe</u> |
|----------------------|------------------------------------|--|
| Base Facility Charge |                                    |  |
| Meter Size           |                                    |  |
| 5/8" x 3/4"          | \$ 6.58                            | \$ 12.59                               |
| 1"                   | 16.47                              | 31.48                                  |
| 1 1/2"               | 32.93                              | 62.95                                  |
| 2"                   | 52.68                              | 100.72                                 |
| 3"                   | 105.36                             | 201.44                                 |
| 4"                   | 164.64                             | 314.75                                 |
| Gallorage Charge     | \$ 1.34                            | \$ 1.65                                |

Although we have used conservative estimates, the rates calculated for Pointe are higher than any of the other certificated utilities in Marion County. This is largely due to the small number of customers at buildout. According to estimates provided by Pointe, as adjusted by the Commission Staff, 50 percent of the operating costs are for salaries and wages and contractual services.

Marion collects a \$30.00 customer deposit for 5/8" x 3/4" meters. Customers requiring larger meters obtain a quotation from Marion upon request. This deposit does not exceed an amount equal to the expected average bill for water service for two billing periods.

Based on the foregoing, we find Marion's rates and customer deposits to be reasonable and they are, therefore, approved. These rates shall be effective for meter readings on or after 30 days from the effective date of this Order. The customer deposits shall be effective for connections on or after the effective date of this Order.

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Service Availability Charges

Order No. 11568, issued January 31, 1983, in Docket No. 810259-W, granted Marion Certificate No. 347-W and approved Marion's service availability charges. That Order states, "Our review of the information submitted by the utility, as well as our auditor's report, indicates that the level of contributions in aid of construction (CIAC) is well below that desired by the Commission . . . To raise CIAC to an acceptable level would result in undue hardship and be discriminatory to future customers. We will, therefore, approve the utility's present charges for service availability . . ." Marion's currently approved service availability charges vary by subdivision or service area and include meter installation and tap-in fees ranging from \$200 to \$450, and main extension charges based on the actual cost of constructing the lines.

We believe that service availability charges for the Pointe system should be based on current Commission rules and policy regarding original certificate applications. Currently, the Commission approves service availability charges which will result in a 75% net CIAC level when the system reaches buildout. Marion's service availability charges have resulted in a low CIAC level for its other systems. We do not believe this practice should be continued in a new system that is just beginning operation. In addition, Marion has requested that service availability charges be established based on the characteristics of the Pointe system. It is Marion's position that it would be in the best interest of its existing customers to establish cost-based service availability charges for this system. Marion's agreement to purchase the system is contingent upon the approval of the service availability charges.

An analysis of Pointe's system shows that the water plant and distribution system have been installed and are being sold to Marion at the cost of construction, \$108,770. Since the pumping equipment and wells are oversized for the system, a "used and useful" adjustment has been made. This adjustment agrees with Marion's adjustment, which is to reduce these components before calculating service availability charges. The composite depreciation rate for the Pointe system, pursuant to Rule 25-30.140, Florida Administrative Code, is 3.09%.

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The service availability charges set forth below will allow for a contribution level of 75% when the system reaches buildout. The main extension charge will allow for recovery of the total original cost of the transmission and distribution facilities, net of accumulated depreciation, at buildout. Our analysis of the service availability charges is shown on Schedule 1.

|                           |  |             |
|---------------------------|--|-------------|
| Meter Installation:       |  |             |
| 5/8" x 3/4"               |  | \$100.00    |
| 1"                        |  | 130.00      |
| 1 1/2"                    |  | 180.00      |
| Over 1 1/2"               |  | Actual Cost |
| Plant Capacity Charge     |  |             |
| Residential - Per 255 gpd |  | \$325.00    |
| All Others - Per Gallon   |  | \$ 1.27     |
| Main Extension Charge     |  |             |
| Residential               |  | \$430.00    |
| All Others - Per Gallon   |  | \$ 1.69     |

We find these charges to be appropriate and they are, therefore, approved for the Pointe system. These charges shall be effective for connections made on or after the stamped approval date of the tariff sheets. The tariff sheets will be approved by Commission Staff upon verification of the expiration of the protest period of this Order.

It is, therefore,

ORDERED by the Florida Public Service Commission that the application of Pointe Utilities, Inc., 1760 Mitchell Court, Daytona Beach, Florida 32124, for a water certificate in Marion County is hereby denied. It is further

ORDERED that Marion Utilities, Inc., 710 N.E. 30th Avenue, Ocala, Florida 32670, is hereby authorized to provide temporary service to the territory described in Attachment A of this Order. It is further

ORDERED that Marion Utilities shall file an application for amendment of Certificate 347-W to include the territory

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described in Attachment A within 90 days of the date of this Order. It is further

ORDERED that Marion shall charge its currently approved rates and customers deposits, as set forth herein. These rates shall be effective for meter readings on or after 30 days from the effective date of this Order. The customer deposits shall be effective for connections on or after the effective date of this Order. It is further

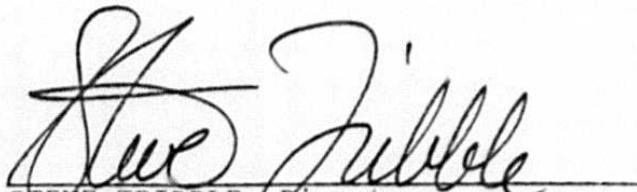
ORDERED that Marion shall charge the service availability charges approved herein. These charges shall be effective for connections made on or after the stamped approval date of the revised tariff sheets. It is further

ORDERED that Marion shall filed revised tariff sheets reflecting the additional territory described in Attachment A within 30 days of the date of this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition in the form provided by Rule 25-22.36, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event that this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission,  
this 24th day of MAY, 1990.

  
STEVE TRIBBLE, Director  
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

As identified in the body of this order, our action denying Pointe Utilities, Inc.'s request for a certificate and setting rates and charges is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on June 14, 1990. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If the relevant portion of this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days



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of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

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## ATTACHMENT A

TURNING POINTE ESTATES  
MARION COUNTY  
SERVICE TERRITORY DESCRIPTION

Township 17 South, Range 22 East

In Section 07

The West 1/2 of the NE 1/4 of the NE 1/4.

and

The SW 1/4 of the SE 1/4 of the NE 1/4, EXCEPT the North 210 Feet of the South 260 feet of the West 210 feet, and EXCEPT the South 50 feet.

and

The NW 1/4 of the SE 1/4 of the NE 1/4.

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## SCHEDULE 1

Pointe Utilities, Inc.  
 Water Utility  
 Schedule of Net Plant to Net C.I.A.C.  
 At 100% of Design Capacity

| Account Number | Account Description                       | Water         | Sewer        | Total   |
|----------------|---|---------------|--------------|---------|
| 101            | Utility Plant in Service and Land         | 98,142        | 0            | 98,142  |
| 104            | Accumulated Depreciation                  | (3,274)       | 0            | (3,274) |
|                | Net Plant                                 | 94,868        | 0            | 94,868  |
| 271            | C.I.A.C.                                  | 73,530        | 0            | 73,530  |
| 272            | Accum. Amortization of C.I.A.C.           | (2,269)       | 0            | (2,269) |
|                | Net C.I.A.C.                              | 71,261        | 0            | 71,261  |
|                | Net C.I.A.C. / Net Plant                  | 75.12%        | 0.00%        | 75.12%  |
|                | Gross to Gross Minimum Contribution Level | 61.98%        | 0.00%        | 61.98%  |
|                | Staff Recommended Charge                  | 855           | 0            | 855     |
|                | Total ERC's                               | 86            | 0            | 86      |
|                | METERS AND LINES:                         | 530.00 METERS | 100.00 LINES | 430.00  |
|                | PLANT CAPACITY:                           | 325.00        |              |         |